IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SECOND APPEAL No 35 of 1986

For Approval and Signature:

HON'BLE MR.JUSTICE A.M.KAPADIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

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STATE OF GUJARAT

Versus

C C RAIYANI

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Appearance:

1. Second Appeal No. 35 of 1986

MR KL PANDYA AGP for Appellants.

NOTICE NOT RECD BACK for Respondent No. 1

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CORAM : HON'BLE MR.JUSTICE A.M.KAPADIA

Date of decision: 29/12/2004

ORAL JUDGEMENT

1. Mr. KL Pandya, learned AGP appearing on behalf of the appellants, states that in view of the order dated 21.11.1994 passed in Civil Appeal No.9218 of 1994

(arising out of SLP (C) No.5296 of 1994) by the Supreme Court, this appeal has now become infructuous. He, therefore, urges to dispose of this appeal as having become infructuous.

2. It appears from the order passed by the Supreme Court in Civil Appeal No.9218 of 1994 that the said appeal was filed against C.G.Raiyani who is also the respondent in this appeal wherein also the subject matter of dispute was the same as is before this Court in this appeal. In the said judgment, the Supreme Court has observed as under:

> "....Hence, the adhoc service rendered by the respondent between May 20, 1969 to July 14, 1972 was not taken into account, in that his seniority had been counted only from the date of the selection, namely, July 15, 1972. Admittedly, that date has been given to the respondent as well as those that were temporarily appointed and were selected. Thereby, the respondent's seniority should be counted only from that date. The Civil Courts as well as the High Court have committed grievous error of law in fixing the seniority of the respondent from the initial date of fortuitous appointment namely, the adhoc appointment made on May 20, 1969. The appeal is accordingly allowed. Judgments and decrees of courts below are set aside. No costs."

3. In view of the aforesaid order passed by the Supreme Court wherein subject matter of dispute was the same as in this appeal, obviously, this appeal has now become infructuous and is required to be disposed of as having become infructuous.

4. For the foregoing reasons, the appeal is disposed of as it has become infructuous. There shall be no order as to costs.

5. Xerox copy of the certified copy of the order passed by the Supreme Court in Civil Appeal No.9218 of 1994 (arising out of S.L.P.(C) No.5296/1994) and copy of the resolutions dated 28.12.1994 and 31.3.2003 are retained on the record of this appeal.

(A.M. Kapadia, J.)

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(karan)